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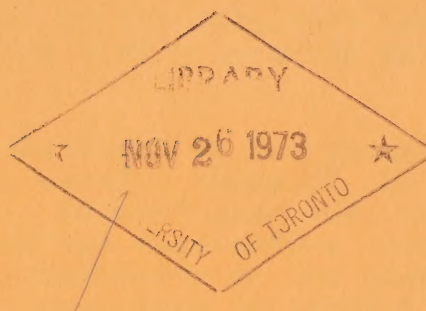
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AN OUTLINE OF COMMUNITY
PLANNING IN ONTARIO



MINISTRY OF TREASURY, ECONOMICS
AND INTERGOVERNMENTAL AFFAIRS

Municipal Services Branch
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Toronto 181, Ontario.

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AN OUTLINE OF COMMUNITY PLANNING IN ONTARIO

1. What is Planning?

Planning is making decisions today with intelligent and informed thought for the future. Community planning is the process through which the responsible agencies of the community -- large or small -- decide what policies and other measures are necessary to produce an environment for pleasant living and a community that is efficient and economical to operate. Important features in a community-planning program are the existing and future pattern of land use; the location and adequacy of roads, schools, and recreational areas; the quality and capacity of water-supply, sewerage, transit, and other public services; and the financial resources of the community to meet its obligations in developing a desirable physical environment.

Before sound decisions can be made, it is necessary to select goals, collect all of the pertinent information, analyse it, and prepare a plan to guide future development.

Planning may also be described as the process of making decisions based on a careful study of all relevant information available. Related measures, such as subdivision control and land-use regulations (zoning), while necessary in the implementation of the planning process, do not themselves constitute an adequate planning program.

2. Planning Areas

Planning areas in Ontario are defined by the Minister of Municipal Affairs under section 2 of The Planning Act. They fall into three main categories, namely:

- (a) single, independent -- where the planning area consists of part or all of one municipality only;
- (b) subsidiary -- where the planning area consists of part or all of one municipality that is included within a larger planning area; and
- (c) joint -- where the planning area consists of more than one municipality.

Section 2 of the Act provides that "The Minister, upon the application of the council of a municipality or the councils of two or more municipalities, or upon his own initiative where in his opinion it is in the interest of any area, may define and name a planning area". The planning area shall consist of part or all of those municipalities that, in the opinion of the Minister, constitute a complete planning unit.

The information required to be furnished by municipalities when applying for the definition of a planning area is set out in a separate pamphlet entitled "Defining Planning Areas".

NOTE: Some planning areas, such as Ottawa-Carleton, Niagara, York, and Muskoka, have been defined by special legislation but are planning areas under The Planning Act.

3. Planning Boards

Planning boards are established to operate within planning areas defined by the Minister of Municipal Affairs or created by special legislation and have the responsibility for carrying out the duties and responsibilities assigned to them by section 12 of The Planning Act.

4. Appointment of Members

Members are appointed to the planning board by the council of the municipality or, in the case of a joint planning board, by the council of the municipality that is named by the Minister of Municipal Affairs to be the designated municipality for the joint planning area. Once the planning board has been established, a chairman and vice-chairman should be elected and a secretary-treasurer appointed.

Normally, the planning board should be composed of 4, 6, or 8 members in addition to the head of the council of the designated municipality. The head of the council is a member ex officio and, with the approval of council may appoint a substitute to act for him from time to time.

While there must be at least one municipal councillor on every planning board -- the head of the council

(the head of the council of the designated municipality in a joint planning board) -- and while it is often thought to be a good idea to include more than one councillor, The Planning Act rules against a majority of members of a planning board being members of council.

Under certain circumstances, it may be necessary to deviate from the normal provisions of The Planning Act -- that is, in respect of terms of office, total number of members, number of councillors, or some other special characteristic of the planning board. Where the special requirements of a particular planning board warrant it, the Minister of Municipal Affairs has authority under section 5 of the Act to vary the constitution of the planning board, the term of office of members, the manner in which the planning board is to function, etc. The special provisions of section 5 of the Act also enable the Minister to permit councillors to constitute a majority of members of a planning board where he deems this arrangement to be justified.

The Minister's approval is required to the appointment of members only in the case of joint planning boards and planning boards in planning areas that include territory without municipal organization (unincorporated townships). Where the constitution of a joint planning board calls for the appointment of members to represent individual municipalities, the council of each municipality within the planning area should nominate its representatives by resolution and forward a copy of the resolution to the clerk of the designated municipality. The council of the designated municipality will then formally appoint the members to the planning board by by-law and forward to the Minister an application for his approval to the appointment of members, together with a copy of the by-law and resolutions.

In all instances, members of the planning board who are members of a municipal council should be appointed for one year. Members of the planning board who are not members of a municipal council shall, on the first appointment, be appointed for one, two, and three year terms of office so that one-third of the non-council members will retire on January 1 of the first year following their appointment, one-third on January 1 of the second year, and one-third on January 1 of the third year. Members whose terms of office have expired may be re-appointed.

The procedures for appointing members to planning boards are set out more specifically in a separate pamphlet entitled "Procedures for Appointing Members to Planning Boards".

NOTE: Recent legislation establishing regional municipalities provides that the council shall be the the planning board. A similar arrangement also applies to some of the new area municipalities created by special legislation.

5. Function of Planning Board

Planning boards established under The Planning Act are strictly advisory bodies. They cannot legislate or make policy decisions. Their function is to make recommendations to council based on a careful study of all of the factors involved -- land use, traffic and transportation, education, recreation, services, municipal finances, and so forth. It is the municipal council that must make the final decision as to whether or not to accept the recommendations of the planning board. However, where a planning board submits recommendations to council -- and especially so in cases where technically-qualified planning assistance is available to the planning board -- council has a responsibility to weigh the recommendations very carefully.

To achieve a sound and effective planning program, it is essential that the planning board and municipalities co-operate in planning matters. The planning board must be kept informed of the policies and decisions of the municipal councils. On the other hand, it is important that the planning board should keep municipal councils informed of the planning program and its progress.

6. Duties of Planning Boards

The duties of planning boards are set out in section 12 of The Planning Act. More specifically, these include:

- (a) investigating and surveying the physical, social, and economic conditions relating to the planning area;

- (b) preparing maps, drawings, texts, statistical information, and other material necessary to carry out the various studies;
- (c) holding public meetings and publishing information to keep the general public advised and to obtain their co-operation and participation in achieving a sound planning program;
- (d) consulting with other local boards and agencies having jurisdiction within the planning area;
- (e) preparing an official plan;
- (f) recommending to municipal councils the implementation of any feature of the official plan;
- (g) reviewing the official plan from time to time and recommending amendments when appropriate.

7. Finances

To enable the planning board to carry out all of its duties and responsibilities effectively it is extremely important that the planning board be furnished with sufficient funds for this purpose and so that it may engage the technically-qualified planning personnel necessary for carrying out the planning program. While it is usually preferable to have the services of full-time planning staff available to the board, it is recognized that, in some instances, the planning program will have to be conducted with the assistance of a professional consultant. Where a planning consultant is engaged, presumably he will be offered a contract to draft an official plan and periodic revisions of the official plan, to undertake such special projects as preparing zoning by-laws, and perhaps to act in a continuing advisory function to the planning board on a retainer basis.

The costs of operating the planning board and implementing the planning program are normally shared among the participating municipalities. Apportionment of the costs is usually based on population, equalized assessment, or a combination of both.

Under section 8 of The Planning Act, the planning board is required to submit its annual estimates to the council. In the case of a joint planning area, the planning board is required to submit its estimates to the council of each municipality within the planning area, together with a statement of the proportion to be charged to each municipality.

Where all of the municipalities that form a county for municipal purposes or a majority of the municipalities in a county that form part of the county for municipal purposes are included in one planning area, the Minister, under section 8(8) of The Planning Act, may authorize the council of the county to act on behalf of such municipalities for the purposes of section 8 of the Act. Where the county council has been given authority under section 8(8) of the Act, it would appear to be sufficient that the planning board submit its estimates annually to the county council.

Where the council of a municipality is not satisfied with the apportionment, it may request the apportionment to be determined by the Ontario Municipal Board. The planning board and Municipal Board must be notified of such request within 15 days after the council has received notice of the apportionment.

Once the estimates of the planning board have been approved, they are binding on all of the municipalities within the planning area.

All of the costs of operating the planning board, including rent for office accommodation, staff salaries, maintenance, stationery, remuneration of members for attending meetings, travel expenses, etc., should come from the funds allocated to the planning board. In some cases, office accommodation is provided without cost by one of the municipalities in the planning area.

8. Official Plans

The purpose of official plans is to provide a formally adopted set of public policies and standards as guidelines for the future development of the community. Official plans do not directly regulate the use of private land and therefore must be supported by zoning by-laws. Zoning (restricted-area) by-laws are necessary to implement the policies established by official plans.

Official plans direct and co-ordinate the policies and activities of various local authorities -- municipal councils, school boards, utility commissions, etc., and in the case of joint planning boards, the councils, boards, and commissions of the municipalities included in the planning area.

Some of the reasons for having an official plan of a joint planning area are as follows:

- (a) Establishing a joint approach to common development problems by carrying out studies for the entire area, making projections for future growth, deciding where various types of development should occur, and how much development should be encouraged or permitted.
- (b) Establishing a joint municipal program of services to include water, sewers, treatment facilities, etc., where these services are required. This will determine where main trunks should be located. The regional services program might also include a regional parks system.
- (c) Establishing a joint major-roads system to determine where new roads should be located and which existing roads should be widened or extended.
- (d) Assisting the councils of the municipalities in the joint planning area to establish uniform or consistent policies and regulations relating to future development.

Development policies for the area covered by the official plan would be included in the text of the plan. These policies would include statements as to the basis on which development would be permitted. For example, it might be decided that urban development should only occur in those areas where municipal services already exist or would be provided in the near future. The criteria to be followed in granting consents to the creation of new lots in rural areas would also be included in the text.

Subsidiary planning boards should develop detailed plans for their individual planning areas, provided these fit into the framework of the joint official plan.

As an official plan is a projection of anticipated growth and planning needs for about 15 years in the future, and as it is impossible to predict accurately what the actual needs of the community will be over such a period, unforeseen circumstances will arise that will necessitate amendments to the official plan from time to time. Thus it is essential that the official plan be reviewed constantly and adapted to meet the changing needs of the area.

It is important, however, that the official plan not be modified so often as to create a lack of confidence in the plan. When a number of amendments are necessary to bring the plan into line with current development policies, then it would appear that the plan is out of date and should be reassessed and revised.

An official plan does not become "official" until it has been recommended by the planning board, adopted by the municipal council, and approved by the Minister of Municipal Affairs -- or by the Ontario Municipal Board, under certain circumstances. In the case of a joint planning area, any other municipality in the planning area may adopt the official plan if the designated municipality fails to do so within 90 days of the plan having been recommended by the planning board. Before the Minister approves a proposed official plan for a joint planning area, he is required to refer it to the council of every municipality in the planning area that he considers to be affected by the plan. Amendments may be prepared, recommended, adopted, and approved in the same manner as official plans but a municipal council may initiate an amendment even though the planning board has not endorsed it.

The Minister has authority to refer any part of an official plan to the Ontario Municipal Board for approval. Similarly, any person can request the Minister to refer any part of an official plan to the Municipal Board, provided that the request is made in good faith, is not frivolous, or is not made for the purpose of delaying approval. The approval of the Municipal Board in such cases has the same force and effect as if it were the approval of the Minister. Where part of an official plan has been referred to the Municipal Board, the Minister may approved the remainder of the plan. The part of the plan approved by the Minister, together with

the part approved by the Municipal Board, constitute the approved official plan of the planning area.

Where an official plan has been approved, this will mean that:

- (a) No public work may be carried out unless it conforms to the official plan;
- (b) No by-laws may be passed that do not conform to the official plan;
- (c) Plans of subdivision will not be approved by the Minister if they are not in conformity with the plan;
- (d) Committees of adjustment must have regard to the provisions of the official plan when granting a minor variance from a zoning by-law. Also, when deciding whether or not to grant a consent to the conveyance of land under section 29 of The Planning Act, committees of adjustment and land division committees must have regard to the provisions of the official plan.

Having an effective official plan in force will provide an overall concept for the planning area and a frame of reference for decisions affecting the physical environment. It also makes for a desirable degree of continuity in the policies and practices that affect the municipality and the individuals in the community in respect of land use, land sales, public services and facilities, etc.

9. Zoning by-laws

Zoning by-laws are prepared for individual municipalities. The by-laws are passed by local councils under section 35 of The Planning Act and must be approved by the Ontario Municipal Board before they are effective. They cannot be passed by planning boards, although the planning board may be charged with the responsibility for preparing the by-law as part of its advisory function to the municipal council. An effective zoning by-law will achieve the following:

- (a) Re-inforce the official plan;
- (b) Define zones for various types of uses (residential, industrial, commercial, agricultural, etc.) and establish the specific type of land use that is permitted in each zone;
- (c) Set standards -- that is, minimum lot size, frontage, height of building, etc.;
- (d) Reduce the municipality's cost of providing a given level of services;
- (e) Give local residents a sense of security in the enjoyment of their property.

10. Committees of Adjustment

Where a municipality has passed a zoning by-law covering all or part of the municipality, the council may establish a committee of adjustment to grant minor variances from the provisions of the zoning by-law. A committee of adjustment can also grant consent to various types of transactions affecting land (creation of single new lots, sales of parts of lots, mortgages, long-term leases, etc.) under the subdivision-control and part-lot-control provisions of The Planning Act if:

- 1. The committee was constituted before 15 June, 1970, but it loses its consent-granting authority on 31 December, 1973, if there is not an official plan in force by that time.
- 2. The committee is constituted on or after 15 June, 1970, and an official plan is in force in the municipality.

Where the Minister is of the opinion that a committee of adjustment is giving consents without due regard to the intent of the provisions of The Planning Act, he may declare that the committee of adjustment has no further jurisdiction to give consents. In that event, consents will be given by the land division committee is operating).

Even though a municipality had constituted a committee of adjustment prior to June 15, 1970, and there

is an official plan approved by the Minister or the Municipal Board affecting the municipality, the council of a municipality, if it so desires, may pass a by-law authorizing the land division committee (see below) to give consents under section 29 of The Planning Act. A certified copy of the by-law must be sent by registered mail to the secretary-treasurer of the committee of adjustment, to the secretary-treasurer of the land division committee, and to the Minister not later than five days after the passing of the by-law. Ten days after the passing of the by-law, the land division committee will have jurisdiction to give consents in the municipality.

Committees of adjustment operate within rules of procedure prescribed by the Minister of Municipal Affairs and must be composed of not less than three members. Any person is eligible for membership on the committee except

- (a) a member of the municipal council;
- (b) an employee of the municipality;
- (c) an employee of a local board of the municipality.

A teacher employed by a board of education or a school board is not considered to be an employee of a municipality or a local board and is therefore eligible for appointment to the committee of adjustment.

There is no residence requirement for members of committees of adjustment. This fact can be used to permit two or more municipalities to have a common committee of adjustment.

11. Land Division Committees

Land division committees may be appointed by the councils of county, metropolitan, regional, or district municipalities where one or more municipalities within their respective areas had not constituted a committee of adjustment prior to June 15, 1970. These land division committees are empowered to give consents under section 29 of The Planning Act and operate within rules of procedure prescribed by the Minister. As in the case of committees of adjustment, land division committees must be composed of not less than three members and any

person is eligible for membership on the committee, subject to the same exceptions that apply to membership on committees of adjustment. Again, there are no residence requirements for membership on land division committees.

12. Appeal Procedures

Decisions of committees of adjustment and land division committees may be appealed to the Ontario Municipal Board by the applicant, the Minister of Municipal Affairs, or any other person who has an interest in the matter. Notice of the appeal must be sent by registered mail to the secretary of the Municipal Board and to the secretary-treasurer of the committee of adjustment or the land division committee within 14 days after the notice of the last day for appealing the decision has been sent. The Municipal Board is required to hold a hearing and to notify the Minister, the applicant, and the secretary-treasurer of the committee of adjustment or the land division committee of the hearing date. The Municipal Board may also notify such other persons as it deems necessary. The costs incurred on the appeal are in the discretion of the Municipal Board.

Where no notice of appeal has been given within the 14-day period, the decision of the committee of adjustment or of the land division committee is final and binding.

More detailed information about land division committees is set out in a separate pamphlet entitled "Land Division Committees".

13. Subdivision Control

All land in Ontario is subject to subdivision control and part-lot control. Accordingly, the subdivision of land, with certain exceptions, will take place by way of a registered plan of subdivision under section 33 of The Planning Act. The exceptions are set out in section 29(2) of the Act and, briefly, they are as follows:

- (a) the grantor does not retain any land abutting the land being conveyed; or

- (b) the land is being acquired or disposed of by the Federal Government, the Provincial Government, or by a municipality, metropolitan municipality, regional municipality, district municipality, or county; or
- (c) the land is being acquired for certain pipe-line rights-of-way; or
- (d) the consent of the committee of adjustment or of the land division committee or of the Minister is obtained.

"Deeming"

In some areas there may be old registered plans of subdivision in existence that would not meet the standards of today. If such a plan has been registered for eight years or more, the council may deem it not to be a registered plan for the purposes of section 29(3) of The Planning Act. This means that a new plan of subdivision must be registered if any part of the land is to be subdivided -- subject to the exceptions listed above.

Exempting part-lot control

As certain registered plans of subdivision have been approved for semi-detached dwellings, row housing, etc., provision has been made in section 29(5) of the Act for municipal councils to pass by-laws exempting the land within these registered plans from subdivision control, thus avoiding the necessity of obtaining consent for each individual transaction. By-laws passed under section 29(5) must be approved by the Minister of Municipal Affairs. The Minister will expect to receive full justification for exempting plans or parts of plans from part-lot control before he approves such by-laws.

14. Plans of Subdivision

A registered plan of subdivision is the most satisfactory method of subdividing land, under most circumstances. Most subdividers will discuss their plans with the planning board or council before the plans are submitted to the Minister for approval. Where an official plan is in force, the plan of subdivision must be consistent with it.

A plan of subdivision requires the Minister's approval. Section 33 of The Planning Act sets out the requirements to be met in submitting an application for the Minister's approval. When an application is submitted, it is examined by the staff of the Community Planning Branch and a preliminary assessment is made. The Branch consults various public agencies; makes a site visit, where necessary; and requests information and comment from all interested agencies, including the planning board and municipal council. The decision as to whether or not to recommend approval of the plan of subdivision is based on a consideration of the plan and the comments received from the various agencies consulted.

Section 28 of The Planning Act provides that the Minister may impose certain conditions to the approval of a plan of subdivision. The conditions imposed upon the subdivider may include such matters as the provision of roads, road widening, installation of services, and the conveyance of five percent of the land in the plan for public purposes. In some cases, changes in design may be necessary.

If the plan of subdivision appears to be satisfactory, the Minister will give draft approval to the plan and set the conditions that are to be imposed.

Before final approval is given to the plan, the municipal council (and perhaps other agencies) must furnish the Department with a letter of clearance stating that all of the conditions have been met. The official plan is then examined carefully with the plan of subdivision that was given draft approval and, if everything is satisfactory, the plan of subdivision will be given final approval by the Minister. The municipal council is then advised that the plan has been approved and released for registration. Detailed information regarding subdivision procedures is contained in the handbook "So you want to subdivide -- Subdivision Procedures". Copies of this publication are available from the Ontario Government Bookstore, 880 Bay Street, Toronto, at a cost of \$2.00 each.

15. Urban Renewal

Considered very broadly, urban renewal may be described as the total of all public and private action

that should be taken to provide for the sound maintenance of built-up urban areas or for their redevelopment. As a planned program to utilize all available development resources, it provides the opportunity for correcting some of the errors of the past, for preventing the repetition or continuation of these errors, and for providing an urban area where people may live, work and play within a physical and social environment specifically planned to meet these needs. Urban renewal involves maintaining the sound parts of the urban community, repairing buildings or facilities that are showing signs of blight, and replacing those that have deteriorated so far that they are beyond satisfactory repair.

The principal urban renewal legislation in force in Ontario is section 22 of The Planning Act, which does not use the term "urban renewal" but instead uses the word "redevelopment" in a sense that is as broad as most people's concept of urban renewal. It defines redevelopment as meaning "the planning or replanning, design or redesign, resubdivision, clearance, development, reconstruction and rehabilitation, or any of them, of a redevelopment area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses, buildings, works, improvements or facilities, or spaces therefor, as may be appropriate or necessary". It will be seen that this definition is sufficiently broad that few, if any, conditions of physical deterioration in a community neighbourhood are excluded.

Urban renewal must be treated as an integral part of the community's planning program. Section 22 of the Act reflects this in providing that the designation of a redevelopment area is only possible where there is an official plan of land use. It will normally be expected that an effective official plan for an urban community having any areas exhibiting signs of deterioration will identify such areas and contain proposals for remedial action. This should ensure, insofar as possible, that any redevelopment proposal takes into account the best future use of the area concerned, the relocation of present residents, and the integration of the area into the pattern of roads and municipal utility services for the area. It should also provide for complementary measures, including rehabilitation and urban conservation, to guard against the public and private investment of

money and effort in redevelopment projects being partly nullified by deterioration of adjacent areas.

Maintenance-and-occupancy by-laws

Section 36 of The Planning Act authorizes the councils of municipalities in Ontario to pass by-laws for prescribing standards for maintenance and occupancy of residential property and for prohibiting the use of such property that does not conform to the standards or, alternatively, for requiring such property to be cleared of all buildings or structures.

By-laws passed under this provision do not come into force until they have been approved by the Ontario Municipal Board and there is provision for appeal to the Municipal Board where an application for amendment to the by-law is submitted and either refused or no decision given, within a prescribed period. Housing standards committees must be established with authority for granting extensions of the time for making repairs to dwellings to bring them up to the standards prescribed in the by-law.

The authority to pass maintenance-and-occupancy by-laws is available only where there is in effect in the municipality an official plan that includes provisions relating to housing conditions.

16. Advice on Community Planning

The Department of Municipal Affairs offers advice to municipal councils and other local authorities on various aspects of planning. Enquiries should be addressed to:

Executive Director,
Municipal Services Division,
Ministry of Treasury, Economics
and Intergovernmental Affairs,
801 Bay St.,
Toronto M81, Ontario.

Advice and assistance may also be obtained from the planning officers located in the following district offices:

Ottawa:	244 Rideau Street Ottawa, Ontario. K1N5Y3
Thunder Bay:	15 Johnson Avenue, Thunder Bay, Ontario
Sudbury:	1349 Lasalle Boulevard, Sudbury, Ontario.
London:	560 Wellington Street, London, Ontario

